IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9620 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SARDAR PATEL KRUSHI UDYOG SAHAKARI MANDALI LTD

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 9620 of 2002

MR HARIN P RAVAL for Petitioner No. 1-2

Mr.Joshi, AGP for Respondent No. 1,2,3 & 4

MR KS JHAVERI for Respondent No. 5 & 6

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 14/08/2003

ORAL JUDGEMENT

With the consent of parties, matter is taken up for final hearing today.

2. Heard Mr.Raval for the petitioners and Mr.Joshi, Ld.AGP for respondent Nos 1 to 4 and Mr.Zaveri for respondent Nos 5 & 6.

3. Having heard the learned counsel appearing for the parties, there is consensus among the learned counsel appearing for the parties that in view of the decision of this court in case of Valsad Dist.Central Coop.Bank Ltd vs State of Gujarat & ors reported in 2003(2) GLH 459, with a view to activate the existing member, the society can make provisions for amendment in the bye-laws. However, the the view taken in the said judgment by this court is that the existing members should be given opportunity to activate themselves by making them eligible to participate as the voters. In the present case, because of ad interim order passed by this court on 27.9.02, the election of the members of the Managing Committee of respondent No.5 came to be held as per unamended bye-laws on 10.7.03 and therefore the question will have to be considered for the purpose of giving opportunity to the existing members to meet with the eligibility criteria and to allow them to participate as voters in the next election which is to be held in July, 2006.

4. In view of the aforesaid, Mr.Zaveri for the respondent Nos 5 & 6 declared before the court that all the existing members shall be given opportunity to meet with the eligibility criteria of participating as voters and they will be given opportunity to buy the additional shares so as to continue to be eligible as voters and such opportunity shall continue for a period of one year.

5. Under the above circumstances, when there is power to amend the bye-laws and such amendment in the bye-laws is to take effect by providing sufficient opportunity to existing members to activitate themselves and thereby to participate as voters, the amendment can legally stand in the bye-laws, more particularly, in view of the declaration given by Mr.Zaveri on behalf of respondent Nos 5 & 6. Therefore, the respondent No.5 shall act as per the declaration made by Mr.Zaveri and shall give effect to the amendment in the bye-laws so far as election is concerned from the next election that has to become due in July, 2006.

6. The contention that after the rejection of proposal whether the Registrar could have granted the

sanction or not is not pressed by Mr.Raval in view of the peculiar facts and circumstances of the case, and therefore, this court is not required to decide that question.

7. In view of the aforesaid observations and directions, no further order is required to be passed in this petition. Therefore, petition is disposed of accordingly. Rule is discharged subject to aforesaid observations and directions. Ad interim relief is vacated. There shall be no order as to costs.

14.8.03 (JAYANT PATEL,J)